

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	
	:	Chapter 11
LA PALOMA GENERATING COMPANY,	:	Bankruptcy Case No. 16-12700 (CSS)
LLC, et al.,	:	
	:	
Debtors.	:	
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	:	
PETER KRAVITZ, SOLELY IN HIS	:	
CAPACITY AS THE LIQUIDATING	:	
TRUSTEE OF THE LA PALOMA	:	
LIQUIDATING TRUST,	:	
	:	
Appellant,	:	
	:	
v.	:	C. A. No. 18-1759-MWB
	:	BAP No. 18-50
CALIFORNIA STATE BOARD OF	:	
EQUALIZATION,	:	
	:	
Appellee.	:	

RECOMMENDATION

At Wilmington this 4th day of **December, 2018**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel via a letter, to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process.

The parties previously participated in an in-person mediation on June 19, 2018 before an accomplished mediator, Clayton E. Clement, without success. Thereafter, before the due date for the parties' joint letter regarding whether this matter should remain in mandatory mediation, counsel held a telephonic meet and confer on November 19, 2018. As a result, it remains evident that at this stage, the parties' respective settlement positions remain significantly far apart for a consensual resolution

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. No objections to this Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1 are anticipated since this Recommendation is consistent with the parties' joint request.

In light of the holidays and pre-existing obligations of counsel, the parties request a briefing schedule be entered which is attached to this Recommendation

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng
Chief U.S. Magistrate Judge Mary Pat Thyng